IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No.623l of 2004

Ashish V Tendulkar and anr ..Petitioners

vs

The State of Mah and ors....Respondents

Mr.D.S.Sakhalkar for petitioners

Mr. V.P.Malvankar AGP for respondents

CORAM: A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated l5.l2.2004

P.C:

Heard advocates.

2. By this petition the petitioner is impugning the order dated 23.2.2004 passed by the Sub-Divisional Officer,Ratnagiri Sub-Division of regularising the unauthorised construction work carried out for commercial purpose at S No.95 situated at Harshe, Taluka Lanja, District Ratnagiri and is seeking to restrain the Grampanchayat of village Harshe from carrying any further construction work of commercial galas/shops on the said plot of land.

3. It appears that the Additional Collector, Ratnagiri by order RB/2-LND/l522 dated l7.8.l978 granted a piece of government land admeasuring 20 gunthas out of S.No.95 hissa no. l9 of village Harshe, Taluka Lanja District Ratnagiri to the Grampanchayat Harshe. The land was granted as per the request of the Sarpanch, Grampanchayat Harshe

for the purpose of construction of a school building on the conditions mentioned in the said order. The said order was issued under the provisions of rule 6 of the Maharashtra land Revenue (Disposal of Government Lands)Rules l97l, hereinafter called the said Rules and the land was given to the Grampanchayat free of occupancy and free of revenue as per the provisions of rule 6 of the said Rules. It appears that by letter dated 2.4.200l the Collector of Ratnarigi granted permission to the Grampanchayat Harshe for construction of shops under the scheme of providing infrastructural amenities to persons living below poverty line (BPL) for self employment. This was done in partial modification of the earlier order dated l7.8.l978 by order of the Collector on 3.3.200l.

4. It is seen from the affidavit filed on behalf of the State Government that due to non observance of building rules on the part of the Grampanchayat while constructing the said shops the matter has now been referred to the Divisional Commissioner, Konkan Division for review of the order dated 3.3.200l. The learned AGP stated that appropriate action will be taken against the members of the respondent no. 4 and other concerned officers

under the said Act and the MLR Code on receipt of requisite permission from the Divisional Commissioner.

5. The Divisional Commissioner is directed to hear the concerned parties including the petitioner and the Sarpanch Harshe Grampanchayat and pass appropriate orders in respect of construction of structures on S.No.95 in accordance with law within a period of 3 months from today. Till the Divisional Commissioner takes decision no further construction shall be raised on the said property and it is made clear that the construction which is already made shall be subject to further orders of the Divisional Commissioner, Konkan Division. Petition is accordingly disposed of. Contempt notice issued to the Sarpanch, Harshe Grampanchayat stands discharged.